IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1268 OF 2006

Prakash Gulab Bhosale. ...Applicant
V/s.
The State of Maharashtra. ...Respondent

Shri Amin H. Solkar for Applicant.
Ms.M.M. Deshmukh, APP for the State.

CORAM : V.M. KANADE, J.

DATED : APRIL 7, 2006

P.C. :-

. Heard learned Counsel for the applicant and learned APP for the State.

. The applicant was arrested in connection with an offence registered under Section 302 read with Section 34 and under Sections 147, 148, 149 of the IPC.

2. It is alleged by the prosecution that the present applicant alongwith other accused assaulted the deceased with wooden sticks and others with brutal weapons as a result of which the deceased died. It is alleged that the complainant Govind Dhondu Savkare was contesting election which was to be held in April 2005 of the Ambernath Municipal Council. Deceased Jayendra

Hazare informed the complainant that Shyam Gaikwad had threatened him not to help the complainant. On 9th April, 2005 at about 1.15 a.m., when complainant was with the deceased Jayendra Hazare outside his residence, the applicant alongwith other accused arrived in a jeep and they started assaulting Jayendra Hazare. The other accused were armed with choppers. It is alleged that the present applicant was armed with wooden stick.

3. It is submitted that the name of the applicant is not mentioned in the FIR and the only after his arrest, the other two witnesses have mentioned his name. It is further submitted that even otherwise, the only role attributed to the present applicant is that he had assaulted the deceased with the wooden stick and therefore, his case at the most would fall under Section 304(II). It is further submitted that the complainant in his subsequent statement has mentioned that he has wrongly mentioned the name of Baban, however, he has not disclosed that the name of the present applicant was wrongly mentioned as Prashant Bhosale.

4. Learned APP, on the other hand, has stated that there are three eye witnesses all of whom have been injured in the said incident. Among the three eye witnesses, two of them are wife and daughter of the deceased. The third witness is the complainant. It is submitted that the name of the present applicant is wrongly mentioned as Prashant Bhosale.

5. Considering the facts and circumstances of the case, in my view, this is not a fit case for grant of bail. In the First Information Report, apparently, the name of the present applicant appears to have been wrongly mentioned as Prashant, however, there is no dispute regarding the presence of the accused which is evident from the statement of the three eye witnesses who are injured in the incident. The application for bail is rejected. The trial, however, is expedited. If the trial is not over within a reasonable period of time, liberty is granted to the applicant to apply for bail.

. Application is disposed of in the above terms.

(V.M. Kanade, J.)